IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 503 OF 2004

SHRI KASHINATH TIMA GAUDE AND 2 ORS., ...Petitioners

Versus

AMARNATH VISHNU BHAT, DHAVLIKAR AND ANR., ...Respondents

Shri S. D. Lotlikar, Senior Counsel with Mr. Valmiki Menezes, Advocate for the petitioners.

Coram:- R. M. LODHA, J.

Date:- 31st August, 2005

P.C.

Heard Mr. S.D. Lotlikar, the learned Senior Counsel for the petitioners and perused the order of the IInd Addl. District Judge, Panaji as well as the order passed by the Civil Judge, Jr. Division, Ponda. It is true that the Civil Judge, Jr. Division, Ponda granted an interim order of injunction in favour of the present petitioners, but the appeal Court interfered with the said order and set aside the interim order of injunction granted by the trial Court. Though the order of the appeal Court is that of reversal, in the light of the consideration of the material by the appeal Court, it cannot be said that the interference by the appeal Court in the interim order granted by the trial Court was not justified. In its order, the appellate Court considered the admitted position concerning Survey No.24/2 thus :

> " Further, it is not disputed that land in survey No.24/2 was developed into 39 plots under permission from the concerned authorities and that out of these 39 plots, 33 plots have been sold to different purchasers vide sale deeds executed between

1978-1998. Appellants have produced various sale deeds drawn between the aforesaid period in support of their above contentions. I find force in the submissions of learned advocate for appellants that this by itself indicates that possession of survey No.24/2 was with appellants much prior to 1978 and that respondents did not react to it all throughout and this being the case application under consideration deserves to be dismissed as suffering from delay and laches."

2. No interference is called for in the impugned order. The writ petition is dismissed in limine.

Needless to say that any construction raised by the respondents/defendants during the pendency of the suit, shall be subject to the final decision in the suit.

R. M. LODHA, J.